

REMARKS

Claims 1-20 are currently pending in the application. By this amendment, claims 2, 5, 8, 13 and 20 are amended. The specification and drawings are also revised. The above amendments do not add new matter to the application and are fully supported by the specification. Reconsideration of the rejected claims in view of the above amendments and the following remarks is respectfully requested.

Specification Objections

The summary of the specification was objected to for not being complete. In order to expedite prosecution, Applicants have submitted a replacement specification with a summary of the originally filed claims in sentence form. The above amendments do not add new matter to the application and are fully supported by the specification. A marked-up copy of the specification is also attached.

Accordingly, Applicants respectfully requests that the Examiner reconsider and withdraw the objection of the above-noted summary of the specification.

Drawings Objections

Figure 2 was objected for the misspelling of "SENDOR". Applicants have amended Figure 2 to correct the misspelling. Figure 6 was objected to for the term "IS". Applicants have amended Figure 6 to replace "IS" with - -DOES- -, as well as corrected "SERVES" of box 612 to - -SERVERS- -. No new matter is added.

Accordingly, Applicants respectfully requests that the Examiner reconsider and withdraw the objection of the above-noted drawings.

Claim Objections

Claims 2, 5, 8, 13 and 20 were objected to by the Examiner. Claim 13 has been amended to delete the quotation mark after the work "credibility". Applicants note that claims 2, 5, 8 and 20 are not ambiguous and were presented clearly and concisely in the claims and specification. However, in order to expedite prosecution, claims 2, 5, 8 and 20 have been amended to include "first" when referring to the "analyzed voice data". No new

matter is added.

Accordingly, Applicants respectfully requests that the Examiner reconsider and withdraw the objection of the above-noted claims.

35 U.S.C. §102 and §103 Rejections

The Office Action rejects claims 14 and 15 under 35 U.S.C. §102 (e) over U.S. Patent Application Publication No. 2003/0050777 to Walker ("WALKER"). The Office Action further rejects claims 1-13, 16-17 and 19-20 under 35 U.S.C. §103(a) over WALKER in view of U.S. Patent No. 6,701,293 to Bennett et al. ("BENNETT"). The Office Action rejects claim 18 under 35 U.S.C. §103(a) over WALKER in view of European Patent Application No. 1 061 724 to Saito et al. These rejections are respectfully traversed.

The Examiner's rejections are moot in view of Applicant's Declaration Under 37 C.F.R. § 1.131.

Under 1.131, a rejection under 35 U.S.C. 102(e) or 103 based on a foreign patent or publication may, upon a proper showing, be overcome by removing the foreign patent or publication as a reference against the claims. Applicants submit that the Rule 131 Declaration submitted herewith is sufficient to remove the WALKER patent as a reference and thus is sufficient to overcome the above-noted rejections.

More specifically, Applicants submit that the Rule 131 Declaration is formally and substantively sufficient to establish that the Inventors had completed the invention defined in at least claims 1-20 before the effective date of the WALKER reference, i.e., September 7, 2001. The statements in the Declarations show that the formal requirements of 131 are satisfied, namely:

- (1) the rejections to be overcome are under 103(a),
- (2) all the acts for completing the invention of claims 1, 14 and 19 (and those claims dependent thereon) were performed in this country, and
- (3) the effective date of the WALKER reference (September 7, 2001) is not more than one year prior to the filing date of the present application in this country.

It is respectfully submitted that the statements in the Declaration are also sufficient to satisfy the substantive requirements of 37 C.F.R. 131. The Declaration sets forth specific facts, of sufficient character and weight, to establish a **date of conception** before the September 7, 2001 effective date of the WALKER reference, and to show that the Inventors and their attorneys exercised **due diligence** from a time before the effective date of the WALKER reference to a constructive reduction to practice, i.e., to the filing date of the application.

DATE OF CONCEPTION

As stated in the Declaration, a method of integrating acoustic data using speech recognition, a system for integrating acoustic data using speech recognition and a machine readable medium containing code for integrating acoustic data using speech recognition as defined in claims 1, 14 and 19 (and those claims dependent thereon) was conceived by the Inventors before the effective date of the WALKER publication. An IBM Invention Disclosure and other supporting documents were submitted with the Declaration as supporting evidence of this prior date of conception. It is respectfully submitted that the Invention Disclosure shows that the Inventors had a definite and permanent idea of the complete and operative invention of claims 1, 14 and 19 (and those claims dependent thereon), as presently pending, prior to the September 7, 2001 effective date of the WALKER publication. The supporting documents also show the prior date of conception.

In particular, the Invention Disclosure shows, textually and pictorially, the features of claims 1, 14 and 19 (and those claims dependent thereon). In fact, these Figures are the basis for the figures filed in the application and used for support for the pending claims. The supporting documents also show that the features of claims 1, 14 and 19 (and those claims dependent thereon) were conceived prior to the effective date of the WALKER publication, September 7, 2001. Also, Applicants note that the original copy of the Invention Disclosure shows a date antedating the September 7, 2001 effective date of the WALKER publication. This and all other pertinent dates have been removed from the photocopies of the Invention Disclosure and accompanying documents submitted with the

Declaration to prevent any potential prejudice to Applicants. It is noted that the figures provided are illustrative in nature and are not intended as limiting features of the invention.

Applicants further submit that the Declaration filed herewith shows, unequivocally, that the Inventors had in their possession a definite and permanent idea of the complete and operative invention of claims 1, 14 and 19 (and those claims dependent thereon) before September 7, 2001 in a manner sufficient to satisfy the requirements of conception, as set forth in M.P.E.P. 715.07 and 2138.04, and thus constitute *prima facie* evidence of Applicants' date of conception of the invention in this country before the effective date of the WALKER publication.

DUE DILIGENCE

Applicants further submit that the Declaration shows the Inventors and their attorneys exercised due diligence from a time before the September 7, 2001 effective date of the WALKER publication.

IBM authorized outside counsel of McGuireWoods to prepare the application, and the IBM Invention Disclosure and documents were forwarded to counsel prior to September 7, 2001. These documents were forwarded to outside counsel on or about April 6, 2001.

The inventors communicated with patent counsel in preparing a patent application for the above matter prior to September 7, 2001. The inventors worked diligently on the preparation of the patent application until it was finalized for filing on January 29, 2002. As an example, in-house IBM counsel, Stephen Kaufman, forwarded letters to outside counsel, Mr. Monte Whitham of McGuireWoods, on April 6 and 9, 2001, which including the Inventor Disclosure Statement, attached hereto. Soon thereafter, Mr. Calderon, of McGuireWoods, contacted the inventors, and more specifically, Mr. Yashchin to discuss this invention and the preparation of a patent application. A draft application was forwarded to Mr. Yashchin on June 11, 2001, via facsimile. Further revisions were made and a final application was forwarded to the inventors, after working diligently on the draft applications, on December 28, 2001.

Outside patent counsel also acted in an expeditious manner to prepare and forward the application to filing. Under M.P.E.P. 2138.06, only **reasonable** diligence is required in this regard. More specifically, 2138.06 states that a patent attorney will be held to have exercised reasonable diligence if the attorney worked reasonably hard on the application during the critical period, taking into consideration any backlog of unrelated cases the attorney may have had and his completion of those cases along with the present application in chronological order. Applicants respectfully submit that the Declaration shows that their patent attorneys acted sufficiently expeditiously to satisfy the requirements of due diligence.

Applicants submit that the Declaration submitted herewith are sufficient to show that the Inventors and their attorneys exercised due diligence the due diligence required under 37 C.F.R. 131. The Declarations show that at least one Inventor remained in regular contact with patent attorneys to answer questions, provide technical explanation, and supply the supplemental disclosure materials necessary for enabling the application to be filed in an expeditious manner.

Thus, Applicants respectfully request that the Examiner reconsider and withdraw the rejections of the claims 1-20.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that all of the claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed. Applicants hereby make a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to IBM Deposit Account No. 50-0510.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Andrew M. Calderon', with a large, stylized circular flourish at the end.

Andrew M. Calderon
Registration No. 38,093

April 12, 2005
Greenblum & Bernstein, P.L.C.
1950 Roland Clarke Place
Reston, Virginia 20191
Telephone: 703-716-1191
Facsimile: 703-716-1180

REPLACEMENT DRAWINGS

Attached hereto are replacement drawings for figures 2 and 6, without any markings. The changes to the drawings are explained below, in the "REMARKS" section. All of the drawings on the replacement sheet, as originally filed, are provided herein. The header of each revised drawing sheet includes the following information: (i) "Replacement Sheet", (ii) application number and (iii) date information. The Examiner is requested to provide an indication of such consideration in the next Office Action.